

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION
ASSESSMENT APPEALS COMMISSION

In the matter of:

HERMITAGE CREST APT. LP
Map 086-00-0, Parcel 092.00
Commercial Property
Tax Year 2004

)
)
) Davidson
) County
)
)

FINAL DECISION AND ORDER

Statement of the case

This is an appeal by the taxpayer from the initial decision and order of the administrative judge, who recommended the following value and assessment:

<u>Parcel</u>	<u>Land Value</u>	<u>Improvement</u>	<u>Total Value</u>	<u>Assessment</u>
092.00	\$672,000	\$1,573,100	\$2,245,100	\$898,040

The appeal was heard in Nashville on September 24, 2007 before Commission members Stokes (presiding), Creecy, and Gilliam.¹ The taxpayer was represented by counsel, Mr. David Scruggs, and the assessor by Ms. Jenny Hayes, Assistant Metro Attorney.

Findings of Fact and Conclusions of Law

The subject property is a multi-building, two to three story apartment complex in the Hermitage area. Originally designed for 168 units in the I.R.C. §42 low income housing program, the 1996 construction was plagued by various defects leading to the property being vacated in 2002. In 2005 the property was rehabilitated as conventional apartments.

The taxpayer through counsel argues for a value of \$1.5 million for tax year 2004, based on the sale of the property on August 13, 2004 for \$1,486,000. Fred Ripley, a real estate broker with Brookside Properties, had listed the property after it was foreclosed by a lender in April of 2004. He did not testify as to the value of the property but rather to his efforts to market and sell it. An accountant employed by counsel, Suzanne Allen, also testified regarding what she believed to be appropriate

¹ Mr. Creecy and Mr. Gilliam sat as designated alternates in the absence of regular members. Tenn. Code Ann. §4-5-30s (e).

adjustments to an income approach valuation submitted by assessor's staff appraiser Kenny Vinson.

As of January 1, 2004, the property was vacant due to the various unrepaired structural problems. The property had been reappraised in 2001 (with the rest of the county) at upwards of \$9 million but the value was reduced in a 2003 State Board appeal, in consideration of its condition, to its present value of \$2,245,100. The administrative judge affirmed this value for 2004 without making detailed findings other than "lack of proof" by the taxpayer's then representative, Walter H. (Beau) Benedict. As the appellant before the Commission, the taxpayer once again bears the burden of proof that the initial decision and order under review is in error or the value under appeal is excessive. The Commission finds and concludes this burden has not been met and the initial decision and order should be affirmed.

We have considered evidence in the form of post-assessment date sales for limited purposes under our precedents, and we accepted that evidence here, but the August 2004 sale is of questionable value as an indicator of fair market value as of January 1, 2004. Apart from its post-assessment date, the sale was concluded by a seller anxious to free itself of the risk associated with extensive repairs that would be needed to restore the property to operation. Although broker Ripley contacted anyone he knew who might be in the market, the short exposure (2-3 months) likely limited potential bidders for the property. The taxpayer's arguments concerning the assessor's income approach value require us to draw conclusions from an engineer's letter concerning cost to cure structural defects, and without the engineer present to question or explain., we decline to use that evidence to derive an alternative value to that which is before us.

ORDER

By reason of the foregoing, it is ORDERED, that the initial decision and order of the administrative judge is affirmed, and the value and assessment of the subject property are determined as follows for tax year 2004:

<u>Parcel</u>	<u>Land Value</u>	<u>Improvement</u>	<u>Total Value</u>	<u>Assessment</u>
092.00	\$672,000	\$1,573,100	\$2,245,100	\$898,040

This order is subject to:

1. Reconsideration by the Commission, in the Commission's discretion.


Reconsideration must be requested in writing, stating specific grounds for relief and

the request must be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.

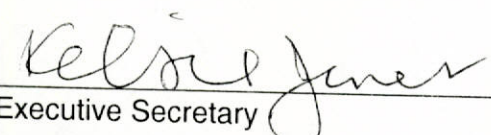
2. Review by the State Board of Equalization, in the Board's discretion. This review must be requested in writing, state specific grounds for relief, and be filed with the Executive Secretary of the State Board within fifteen (15) days from the date of this order.
3. Review by the Chancery Court of Davidson County or other venue as provided by law. A petition must be filed within sixty (60) days from the date of the official assessment certificate which will be issued when this matter has become final.

Requests for stay of effectiveness will not be accepted.

DATED: Nov. 29, 2007


Presiding member

ATTEST:


Executive Secretary

cc: Mr. David Scruggs, Esq.
Ms. Jenny Hayes, Metro Dept. of Law
Mr. Dean Lewis, Assessor's office